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Foreword

Related Party Transactions (RPTs) have been an area of focus for regulators, auditors and shareholders. The Companies Act, 2013 (the 2013 Act) and the Securities and Exchange Board of India (SEBI) (Listing Obligations and Disclosure Requirement) Regulations, 2015 (LODR Regulations) lay a lot of emphasis on RPTs. Over the past few years, the regulatory authorities have constantly endeavored to amend regulations relating to RPTs with an intent to increase transparency by requiring detailed disclosures, timely compliances and robust governance provisions. The regulatory framework pertaining to related parties and RPTs has evolved on account of the complexities around this area and the compliance challenges that companies face under various regulations due to complex group structures. There has always been a challenge for identifying RPTs and such transactions are often camouflaged to depict transactions with a non-related company. The management of a company is usually in the best position to identify related party relationships and transactions. Therefore, companies are expected to set up a robust design around identification of related parties, RPTs and approval of RPTs. This edition of Accounting and Auditing Update (AAU) contains an article on related party transactions and disclosures. This article highlights key considerations for the management of a company to ensure compliance with respect to the regulatory requirements for related parties and RPTs.

Over the years, investors, regulators, and other stakeholders have started giving attention to sustainability reporting for the purpose of making investment decisions and are relying on comprehensive and qualitative sustainability disclosures. These disclosures are centered around the ESG (Environment, Social and Governance) pillars of value creation, inclusive growth and sustainable development. Sustainability reporting is still at a nascent stage worldwide, measuring and reporting the same can be challenging for the companies. Thus, it is crucial that such information is accurate, complete, reliable and relevant. The assurance on sustainability information is also taking centre stage, as independent assurance helps in building trust, robustness and comparability of sustainability information. Regulators around the world are working towards bringing reforms in the sustainability assurance space. In India, there was no authoritative guidance with regard to assurance engagements on sustainability information and many practitioners were applying the International Standard on Assurance Engagements (ISAE) 3000, *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* to provide assurance on sustainability information. Considering this, the Institute of Chartered Accountants of India (ICAI), issued the Standard on Sustainability Assurance Engagements (SSAE) 3000, *Assurance Engagements on Sustainability Information*. SSAE 3000 is an umbrella standard applicable to all assurance engagements on sustainability information. The article on this topic aims to summarise the important aspects of SSAE 3000 and analyse the related considerations for management of a company as well as practitioners.

There have been various regulatory developments in India and internationally during the month. Recently, SEBI approved the regulatory framework for ESG disclosures by listed entities, framework for ESG ratings and rating providers in the securities market and ESG investing by mutual funds. Further, SEBI issued a consultation paper to streamline disclosures of listed entities and strengthen the compliance by proposing amendments to the SEBI LODR Regulations. Additionally, (ICAI) issued the implementation guide on reporting under Rule 11(g) of the Companies (Audit and Auditors) Rules, 2014. The Rule 11(g) deals with reporting on the use of accounting software by a company for maintaining its books of accounts which has a feature of recording audit trail. Our regulatory updates articles cover these and other important regulatory developments.

We would be delighted to receive feedback/suggestions from you on the topics we should cover in the forthcoming editions of AAU.

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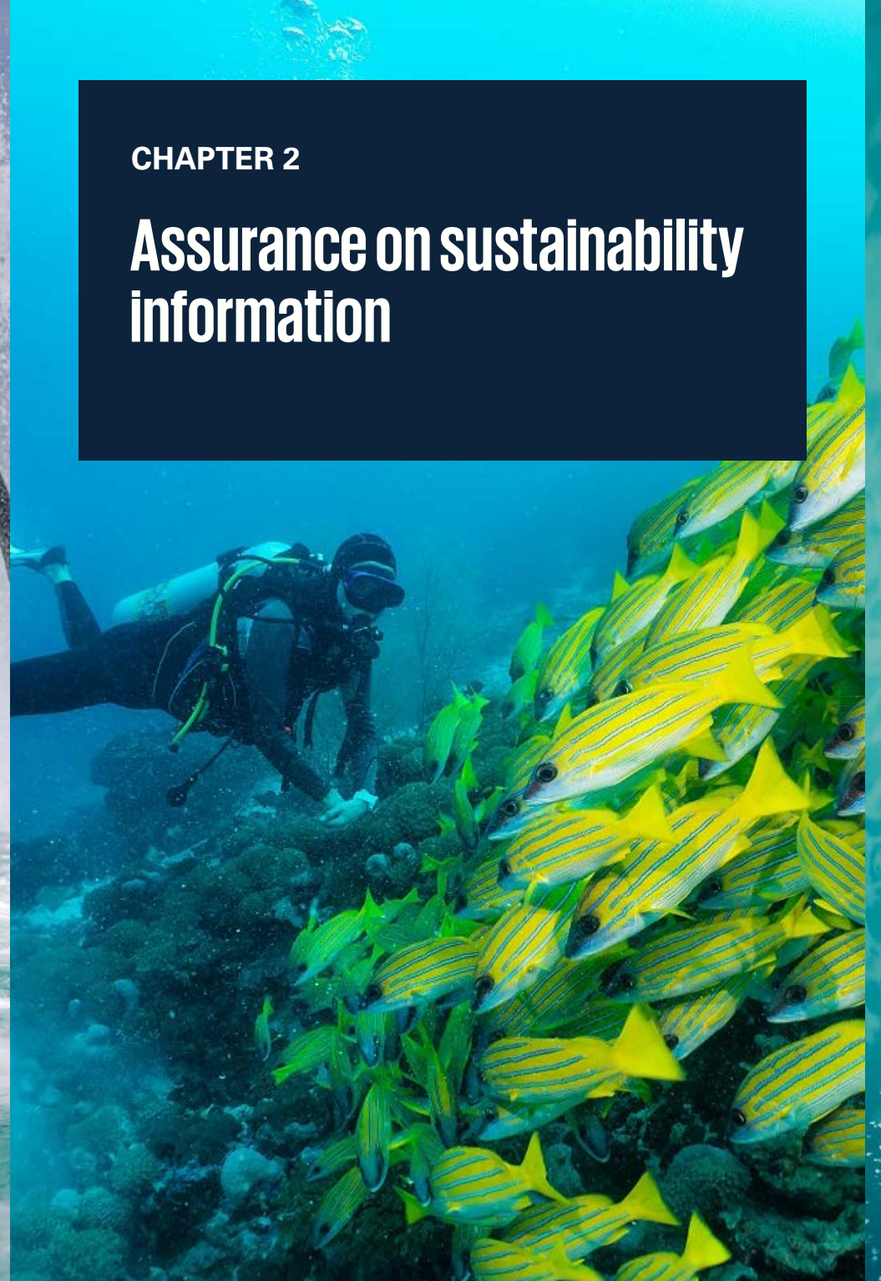
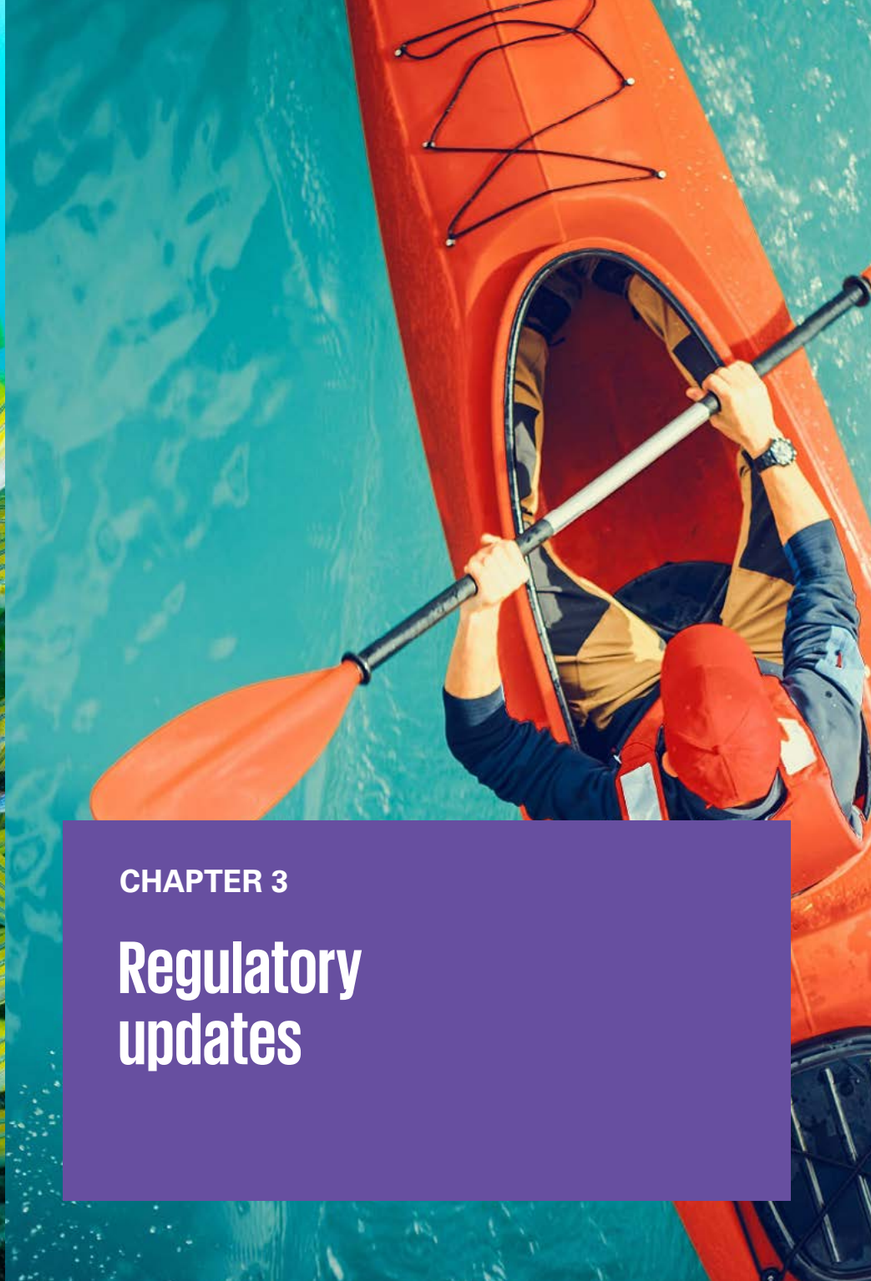
CHAPTER 1

Related party transactions and disclosures

CHAPTER 2

Assurance on sustainability information





CHAPTER 3

Regulatory updates

CHAPTER 1

Related party transactions and disclosures

This article aims to:

- Provides an overview of related parties and RPTs framework and
- Highlight key considerations with respect to various regulatory provisions surrounding related parties and RPTs.

Introduction

Related party relationships and transactions are areas of interest for various stakeholders. Generally, businesses prefer to collaborate with people and organisations they know and trust, however, extensive and complex network that could result in difficulty in identifying related parties and Related Party Transactions (RPTs). This could pose a higher risk of fraud and could reflect a poor governance framework within a company.

Regulators in India and across the globe lay a lot of emphasis on RPTs. Over the past few years, the regulatory authorities have constantly endeavoured to amend regulations relating to RPTs with an intent to increase transparency by requiring detailed disclosures, timely compliances and robust governance provisions. The regulatory framework pertaining to related parties and RPTs has evolved on account of the complexities around this area and the compliance challenges that companies face under various regulations due to complex group structures.

Overview of the regulatory framework

Currently, corporates in India comply with AS 18/ Ind AS 24[1] and the provisions of the Companies Act, 2013 (2013 Act) with respect to RPTs.

Additionally, the Securities and Exchange Board of India (SEBI) (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations) provides the regulatory framework for the listed entities relating to related parties and RPTs.

Definition of related party

Every company is required to comply with the definition of related party as described under AS 18/Ind AS 24 and Section 2(76) of the 2013 Act. However, SEBI additionally requires following persons to be considered as related parties for listed entities:

- Any person or entity forming part of the 'promoter' or promoter group' of the listed entity
- Any person or any entity, holding equity shares in the listed entity either directly or on a beneficial interest basis as prescribed under Section 89 of the 2013 Act at any time during the immediately preceding financial year:
  i. 20 per cent or more, or (effective from 1 April 2022)
  ii. 10 per cent or more (effective from 1 April 2023).

1. Ind AS 18, Related Party Disclosures and Ind AS 24, Related Party Disclosures

Definition of RPTs

The definition of RPT is not specifically provided in the 2013 Act, however, Section 188 of the 2013 Act lists down certain contracts or arrangements that would constitute a RPT. Further, as per Ind AS 24, a RPT is defined as transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

In addition to the requirements under the 2013 Act and the accounting framework, SEBI has expanded the scope of RPTs for listed entities to additionally include the following:

- A listed entity or any of its subsidiaries on one hand and a related party of the listed entity or any of its subsidiaries on the other hand, or (effective from 1 April 2022)
- A listed entity or any of its subsidiaries on one hand, and any other person or entity on the other hand, the purpose and effect of which is to benefit a related party of the listed entity or any of its subsidiaries (effective from 1 April 2023)

Approval of RPTs

The 2013 Act and SEBI Listing Regulations lay down the requirements of approval of Board of Directors and shareholders for RPTs. Section 188 of the 2013 Act requires Board of Directors' approval for transactions with related parties, which are not in the ordinary course of business, and which are not at an arm's length basis. However, in case of a listed company, as per Section 177 of the 2013 Act, an audit committee's approval is required for all transactions with related parties. Further proviso to Section 177(4)(iv) permits an omnibus approval for RPTs proposed to be entered into by the company subject to conditions prescribed in the Rule 6A of the Companies (Meetings of Board and its Powers) Rules, 2014. Regulation 23(4) of the Listing Regulations also provides that audit committees may grant an omnibus approval for a period up to one year if specified conditions are met.

Additionally, SEBI requires listed entities to obtain prior approval of the audit committees for transactions wherein the subsidiary of the listed entity is a party to the transaction, but the listed entity is not a party and the value of such transaction exceeds the below mentioned thresholds:

- 10 per cent of the annual consolidated turnover in accordance with the last audited financial statements of the listed entity (effective from 1 April 2022)
- 10 per cent of the annual standalone turnover in accordance with the last audited financial statements of the subsidiary (effective 1 April 2023)

The material RPTs[2] should also be approved by the shareholders as per the provisions of the Listing Regulations.

As can be observed from above, the definition of related parties, RPTs and the approval mechanism under the SEBI Listing Regulations are more stringent as compared to the provisions stipulated in the applicable accounting standards and provisions of the 2013 Act.

2. Regulation 23 of the Listing Regulation provides that a transaction with a related party is considered material, if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds INR1000 crore or 10 per cent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity, whichever is lower.

Key considerations for the management to ensure compliance with the regulatory provisions

The management of a company is usually in the best position to identify related party relationships and transactions. Therefore, companies are expected to set up a robust design around identification of related parties , RPTs and approval of RPTs. Certain considerations that management can take note of to ensure appropriate identification, classification and disclosure of related party relationships and transactions are as follows.

Implementing policies, procedures and controls

a. **Internal controls:** The standard Operating Procedures (SOPs), processes and system of internal controls must be appropriately designed and implemented to identify, classify and report related parties and transactions. The processes and controls should be effective to identify exceptional transactions and non-compliances.

b. **Related party policy and group consideration:** Related party policy should be updated to include the requirements of the 2013 Act and the SEBI Listing Regulations. Further, in consultation with the audit committees, the RPT policies should define what constitutes a material modification based on qualitative and quantitative factors. The management must ensure that a process is in place to periodically review and, if necessary, amend the RPT policy on the basis of any developments.

   The related party policy and regulatory requirements relating to RPTs should also be communicated at a group level to all group companies including those based outside India. The management must also ensure that the related party database and organisation chart is updated frequently to take into consideration any deletions and additions of related parties. The accounting manuals of group and component level may be revised on a regular basis to update RPT policies, related party identification procedures, and approval procedures.

c. **Plan for RPTs' approval:** The management must draw up a plan at the beginning of the year for potential RPTs to be executed during the year and an estimate of the volume of the RPTs expected to be entered into should also be determined. Additionally, information should also be obtained from group companies with respect to the related party transactions proposed to be entered into along with timelines for entering into such transactions. Considering that a prior approvals of the audit committee and shareholders are required for related parties of a listed entity and its unlisted subsidiaries, planning for RPTs at a group level in advance would enable timely approvals and avoid any breach of regulatory provisions.

d. **Transactions to benefit a related party:** The Listing Regulations require the management to analyse transactions entered into with a third party to understand and identify whether the purpose of the transaction is to benefit a related party. The board of directors and management are expected to define the basis for identification of such transactions and set out certain criteria and additional processes for identification of such transactions. The management may also consider updated the RPT policy to specify the criteria used for identifying 'transactions, the purpose and effect of which is to benefit a related party'. Additionally periodic confirmations from the promoter group, large shareholders and other related parties can also be taken to identify related parties that could benefit from certain transactions.

Arm's length evaluation

An important aspect of corporate governance is to ensure that a RPT, whether routine or non-routine in nature, is undertaken at in the ordinary course of business and at an arm's length price. Accordingly, following are a few key points to be considered:

a. Formulating and implementing procedures to evaluate the arm's length basis for RPTs. Also maintain proper documentation to ensure that RPTs are carried at arm's length basis.

b. The company's policy should also explain what constitutes 'transactions in ordinary course of business.' Accordingly, it would help to flag exceptional transactions and identify any irregularities/non-compliances.

c. Price benchmarking, comparing prices at which similar transactions are undertaken with unrelated parties, obtaining comparative price quotes, comparing the terms of the transaction to known market terms for broadly similar transactions in an open market, transfer pricing study, etc. are some of the methods to determine the arm's length price.

d. Consider hiring an external specialist or independent consultants for evaluating the arm's length price for RPTs.

Maintenance of documentation and submission of information

The management must ensure that necessary documentation is in place to facilitate the approval mechanism. Rule 15 of the Companies (Meetings of the Board and its Powers) Rules, 2014 prescribes information to be presented to the board of directors and shareholders while obtaining approval for transactions covered under Section 188(1) of the 2013 Act. However, the 2013 Act does not prescribe the information to be presented to the audit committee for consideration of RPTs. In case of listed entities, SEBI has additionally prescribed[3] through its circular the information to be presented before the audit committee and the shareholders when obtaining their approval under the Listing Regulations. This circular includes a comprehensive list of documents and information as compared to that prescribed under the 2013 Act.

Thus, companies need to ensure they meet the information requirements of both regulations. Certain key requirements to be considered that can be provided for obtaining an approval are as follows:

- Name of related party and nature of relationship
- Material terms and tenure of the contract
- Value of the proposed transaction
- Nature of concern or interest (financial or otherwise),
- Transaction value as a percentage of a turnover,
- Justification as to why the RPT is in the interest of the listed entity,
- A copy of the valuation or other external party report, if any such report has been relied upon

Further, the various departments of the company (e.g. finance team, legal team and secretarial compliance team) must coordinate with each other to identify and monitor related party relationships and transactions to ensure timely compilation of information for the purpose of obtaining approvals. Considering volume of disclosure companies may contemplate bifurcating its disclosures into routine and non-routine transactions and may additionally provide a summary of disclosures as a separate table alongwith detailed disclosures. The management of the entity must also coordinate with other group companies to ensure information is collected well within time.

Auditor's consideration relating to RPTs

Verification of RPTs is one of the crucial and challenging areas while performing an audit of the company. Existence of risks of inappropriate accounting, non-identification, non -disclosure of RPTs especially in large and complex groups and risks of fraud are some of the inherent risks in this area that requires an auditor's skepticism to be enormously high. Standard on Auditing (SA) 550 Related Parties deals with related parties which require a risk-based approach for audit of this area. This standard indicates audit procedures required to be performed as well as illustrates common situations to help an auditor recognise significant risks. The auditors are expected to critically assess the identification and reporting of related parties and RPTs.

Conclusion

There has always been a challenge for identifying RPTs and such transactions are often camouflaged to depict transactions with a non-related company. Therefore, the regulators are constantly working towards tightening the compliance requirements in relation to related party transactions. The regulatory authorities have expanded the scope of accountability and responsibility of not only the management of the company but also the independent directors and audit committee members. Further, the amendments to the Listing Regulations have strengthened the approval and disclosure process of RPTs, enabling audit committee members and shareholders to take informed decisions. The management of the company should ensure that they comply with the spirit of the law and endeavour to provide relevant and detailed information to audit committee members and shareholders.

3. SEBI circular No. SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated 22 November 2021 on disclosure obligations of listed entities in relation to RPTs

CHAPTER 2

Assurance on sustainability information

This article aims to:

Discuss the key provisions of SSAE 3000, *Assurance Engagements on Sustainability Information* and related considerations for management and practitioners.

Introduction

Over the years, sustainability reporting has emerged as an important theme of discussion among the investors, regulators and other stakeholders in the business and capital markets ecosystem. With increasing focus towards non-financial information by the stakeholders, companies in India are making enhanced sustainability disclosures. These disclosures are centered around the ESG (Environment, Social and Governance) pillars of value creation, inclusive growth and sustainable development. Globally, many standards and frameworks on sustainability exist today such as the Global Reporting Initiative (GRI), Task Force on Climate-Related Financial disclosures (TCFD), United Nations Sustainable Development Goals (SDGs), etc. These standards help companies to measure their sustainability performance against the defined benchmarks and metrics and make the required disclosures on non-financial information.

This space is continuously evolving around the world. Sustainability reporting is still at a nascent stage worldwide, measuring and reporting the same can be challenging for the companies. Thus, it is crucial that such information is accurate, complete, reliable and relevant. In this regard, there has been an increased focus towards assurance on sustainability information and regulators around the world are working towards bringing reforms in the sustainability assurance space. The International Auditing and Assurance Standards Board (IAASB) has been proactively issuing standard of assurance engagements other than audits or reviews of historical financial information (ISAE 3000). Additionally, in 2021, the IAASB also issued non-authoritative guidance on applying ISAE 3000 to sustainability assurance engagements.

The diagram below depicts the developments which have taken place at the (IAASB) relating to sustainability assurance.

(Source: KPMG in India's analysis, 2023)

In India, there was no authoritative guidance regarding assurance engagements on sustainability information and many practitioners were applying the International Standard on Assurance Engagements (ISAE) 3000, *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* to provide assurance on sustainability information.

In this regard, the Institute of Chartered Accountants of India (ICAI), through the Sustainability Reporting Standards Board (SRSB) issued the Standard on Sustainability Assurance Engagements (SSAE) 3000, *Assurance Engagements on Sustainability Information* (the standard). SSAE 3000 is an umbrella standard applicable to all assurance engagements on sustainability information. In case there is subject matter information to which a specific assurance standard applies (e.g. GHG emissions), SSAE 3000 will apply in addition to the subject matter specific standard (e.g. SAE 3410).

The standard would be effective on:

- A voluntary basis for assurance reports covering periods ending on 31 March 2023, and
- Mandatory basis for assurance reports covering periods ending on or after 31 March 2024.

In this article, we aim to summarise the key aspects of SSAE 3000 and discuss the related considerations for management as well as practitioners.

SSAE 3000: An overview

SSAE 3000 draws reference from ISAE 3000, issued by the IAASB. The standard provides guidance with regard to both limited assurance as well as reasonable assurance (depending on the type of engagement) and explains the overall requirements regarding assurance on sustainability information to be followed by practitioners. The diagram below illustrates the key aspects of SSAE 3000:

(Source: KPMG in India's analysis, 2023 read with the ICAI notification dated 10 January 2023)

- **Parties involved:** All assurance engagements must have at least three parties:
  - A responsible party, i.e., the management of a company,
  - A practitioner, i.e., a professional accountant in public practice[1] conducting the engagement (usually the engagement partner or other members of the engagement team, or, as applicable, the firm) and
  - Intended users, i.e., shareholders, investors, regulators, etc.

  The standard provides that in many attestation engagements, the responsible party may also be the measurer or evaluator, and the engaging party.
- **Scope:** The standard provides that there are two types of assurance engagements – attestation engagements[2] and direct reporting engagements[3]. SSAE 3000 is applicable only to the attestation engagements. Direct reporting engagements are not included within the scope of SSAE 3000[4]. Additionally, the below are not considered as assurance engagements in terms of SSAE 3000:
  - Engagements covered by Standards on Related Services (SRS), such as agreed-upon procedure and compilation engagements,
  - Consulting (or advisory) engagements, such as management consulting, and
  - Engagements that include professional opinions, views or wording from which a user may derive some assurance, if all of the following apply:
    - Those opinions, views or wording are merely incidental to the overall engagement,
    - Any written report issued is expressly restricted for use by only the intended users specified in the report,
    - Under a written understanding with the specified intended users, the engagement is not intended to be an assurance engagement, and
    - The engagement is not represented as an assurance engagement in the professional accountant's report.

1. As per the ICAI's Code of Ethics, the term 'professional accountant in public practice' refers to the member of the ICAI who is in practice, in terms of Section 2 of The Chartered Accountants Act, 1949. The term is also used to refer to a firm of professional accountants in public practice
2. An assurance engagement in which a party other than the practitioner measures or evaluates the underlying subject matter against the criteria. Such party also often presents the resulting subject matter information in a report or statement. In some cases, however, the subject matter information may be presented by the practitioner in the assurance report. In an attestation engagement, the practitioner's conclusion addresses whether the subject matter information is free from material misstatement. The practitioner's conclusion may be phrased in terms of:
   - The underlying subject matter and the applicable criteria,
   - The subject matter information and the applicable criteria, or
   - A statement made by the appropriate party.
3. An assurance engagement in which the practitioner measures or evaluates the underlying subject matter against the applicable criteria and the practitioner presents the resulting subject matter information as part of, or accompanying, the assurance report. In a direct reporting engagement, the practitioner's conclusion addresses the reported outcome of the measurement or evaluation of the underlying subject matter against the criteria.
4. ISAE 3000 is applicable to attestation as well as direct reporting assurance engagements

- **Understanding the underlying subject matter:** Reporting on non-financial information is based on a blend of both quantitative and qualitative factors. In this regard, the standard provides that the underlying subject matter, as identified by the management must have the following two characteristics:
  - **It can be measured or evaluated against the relevant criteria** (for example – measuring a company's waste generation and disposal (subject matter) against the criteria of total waste disposed off and recycled, and
  - **It can be subject to procedures to gather information required for supporting the necessary assurance conclusion** (for example – verification of systems and procedures used for quantification and collation of waste disposal data by having discussions with personnel regarding the method of waste disposal).

  Further, the practitioner should make inquiries to the relevant parties, such as the functional or department heads, supervisors etc. regarding:
  - Whether they have knowledge of any actual, suspected or alleged intentional misstatement affecting the subject matter information,
  - Whether there is an internal audit function and, if so, further inquiries must be made to obtain an understanding of the activities and main findings of the internal audit function with respect to the subject matter information, and
  - Whether the responsible party has used any experts in the preparation of the subject matter information.
- **Materiality:** The standard states that the practitioner should consider the appropriate materiality threshold for planning and performing the assurance engagement, determining the nature, timing and extent of procedures, as well as evaluating that the subject matter information is free from material misstatement. Some quantitative and qualitative factors that can be considered for determining the materiality threshold include:
  - Number of persons or entities affected by the underlying subject matter,
  - Characteristics of the presentation adopted for the subject matter information, when the applicable criteria allows for variations in that presentation,
  - When a threshold or benchmark value has been identified, whether the result of the procedure deviates from that value, etc.
- **Using the work of subject matter experts/another practitioner/ internal auditor:** The practitioner, while using the work of any subject matter expert, another practitioner or the internal auditor, should evaluate their competence, capabilities and objectivity and perform procedures to determine the adequacy of the work performed.

  However, the standard clarifies that the practitioner would be responsible for the overall conclusion reached and opinion expressed in the assurance report.
- **Documentation:** The practitioner must prepare on a timely basis engagement documentation, thereby providing a record of the basis for the assurance report, the nature, timing and extent of the procedures performed, evidence obtained, significant matters arising during the engagement, if any, conclusions reached, and the significant professional judgements made in reaching those conclusions.

  Engagement documentation should be assembled in an engagement file on a timely basis, i.e., within 60 days after the date of the assurance report and should be retained for a period of not less than five years from the date of the assurance report.
- **Reporting**: Based on the evaluation of the evidence obtained and conclusion reached, an assurance report in writing should be prepared by the practitioner. The assurance report should clearly express the practitioner's conclusion about the subject matter information. In this regard, SSAE 3000 has specified a list of basic elements, such as the underlying subject matter and the applicable criteria, procedures performed, description of inherent limitations associated with the engagement etc. that must be included in the assurance report. The standard has also provided an illustrative format of the assurance reports (both limited as well as reasonable assurance) for reference purpose.

  The standard further states that, the assurance report should not be dated earlier than the date on which the practitioner has obtained the evidence on which his/her conclusion is based.

Important considerations for management of a company

SSAE 3000 explains some important considerations and takeaways for the responsible party (i.e., the management), while supporting the practitioner with the required information and evidence regarding sustainability information. These are discussed below:

- **Identification and determination of subject matter:** Management would be responsible for identifying and determining the relevant subject matter. Based on the subject matter so identified, subject matter information is prepared in accordance with the applicable criteria.
- **Disclosure of applicable criteria:** Management should disclose the applicable criteria that has been used for preparing the subject matter information in the relevant report/ statement.
- **Internal control system:** Similar to a financial audit, management would be responsible for designing, implementing and maintaining such internal controls system, which the entity determines is necessary to enable the preparation of a subject matter information that is free from material misstatement, whether due to fraud or error.
- **Written representation:** Management should submit a written representation to the practitioner and state that it has provided all the information, of which it is aware and which is relevant to the assurance engagement. Such representation should also confirm the measurement or evaluation of the underlying subject matter against the applicable criteria, including the fact that all the relevant matters are reflected in the subject matter information.

  In cases where the practitioner determines it necessary to obtain one or more written representations for supporting such other evidence as is obtained, the management must duly issue the same to the practitioner[5].

5. The date of such written representation should be as near as is practicable, but not after, the date of the assurance report

Next step

Companies in India are providing sustainability disclosures under various formats such as integrating sustainability disclosures as part of the annual report, creating a separate sustainability report, etc. Securities and Exchange Board of India (SEBI) under the SEBI LODR Regulations mandates the top 1,000 listed entities in India to prepare the Business Responsibility and Sustainability Reporting (BRSR) which has become mandatory from Financial Year 2022-23. Further, on 29 March 2023, SEBI has approved the regulatory framework for ESG disclosures, ratings and investing. Corresponding amendments would be made in the SEBI regulations. The BRSR Core would be introduced, which contains a limited set of Key Performance Indicators (KPIs), for which listed entities would need to obtain reasonable assurance. The assurance requirement would be applicable for the top 150 listed entities (by market capitalisation) from FY 2023-24 and gradually applicability will be extended to the top 1,000 listed entities by FY 2026-27.

On the global front, IAASB, in its work plan for 2022-23 announced the development of a new standard - International Standard on Sustainability Assurance (ISSA) 5000, General Requirements for Sustainability Assurance Engagements.

Issuance of SSAE 3000 is a step in the right direction and will be of great value for the gradual transition towards mandatory assurance on sustainability reporting in India. However, since measurement and evaluation of non-financial information entails a lot of emphasis towards qualitative factors and value creation metrics, companies should evaluate their existing systems, processes and internal controls around sustainability performance and build the necessary resources for providing credible, reliable and accurate sustainability disclosures.

CHAPTER 3

Regulatory updates

SEBI proposes framework relating to ESG

The Securities and Exchange Board of India (SEBI) mandated the top 1,000 listed companies (by market capitalisation) to provide ESG disclosures as per the Business Responsibility and Sustainability Reporting (BRSR) from Financial Year (FY) 2022-23. Considering the relevance of ESG information to stakeholders, SEBI issued following consultation papers proposing a regulatory framework for ESG disclosures by listed entities, framework for ESG ratings and rating providers in the securities market and ESG investing by mutual funds. These proposals aim to strike a balance between transparency, simplification and ease of doing business.

I. Proposal relating to ESG disclosures, ratings and investing

On 20 February 2023, SEBI issued a consultation paper on ESG disclosures, ratings and investing. The key takeaways from the consultation paper are:

A. ESG disclosures: The consultation paper recommended assurance of certain key ESG disclosures along with reporting and assurance of ESG footprint of the supply chain of companies. The proposals with respect to ESG disclosures are as follows:

i. **Assurance of sustainability disclosures:** The consultation paper has developed BRSR Core which consists of select Key Performance Indicators (KPIs) under each E, S and G attributes/areas that needs to be reasonably assured. Annexure 1 of the consultation paper contains a format for BRSR Core framework and provides the parameter, measurement and assurance approach for each attribute. The proposed timelines for reasonable assurance are as follows:

Year	Applicability of assurance
FY 2022-23	BRSR -mandatory reporting for top1,000 companies and assurance is not mandatory
FY 2023-24	Reasonable assurance on BRSR Core – mandatory for top 250 companies
FY 2024-25	Reasonable assurance on BRSR Core – mandatory for top 500 companies
FY 2025-26	Reasonable assurance on BRSR Core – mandatory for top 1000 companies

ii. **ESG disclosures for supply chain:** Presently, disclosure of supply chain metrics is covered under leadership indicators in the BRSR which is reported on a voluntary basis. However, certain companies may have significant ESG footprints in their supply chain. Therefore, it is proposed to introduce a limited set of ESG disclosures for the supply chain of companies i.e. BRSR Core in a gradual manner on a 'comply or explain' basis. The implementation is proposed as below:

Year	Applicability of disclosure and assurance
FY 2024-25	- ESG disclosures as per BRSR Core, for supply chain for top 250 companies (by market capitalisation) on a 'comply-or-explain' basis - Assurance not mandatory
FY 2025-26	- ESG disclosure as per BRSR Core for supply chain for top 250 Companies (by market capitalisation) on a 'comply-or-explain' basis Assurance mandatory

B. ESG Rating: The following has been proposed as there is a need felt for developing a separate approach for ESG ratings.

a. **Rating parameters:** The consultation paper has proposed a minimum set of parameters which aim to bring in consistency and aid ERPs in adopting a broad common approach so as to make ESG ratings comprehensive and contextual. The consultation paper provides a list of 15 ESG parameters that have an Indian context in Annexure 2 of the consultation paper

b. **ESG ratings on assured indicators:** It has been proposed that ERPs should provide a Core ESG rating based on information/ reports that are assured/audited/verified.

C. ESG Investing: The consultation paper has proposed to expand the disclosure norms for ESG funds and on measures that would improve transparency, mitigation of risks of mis-selling and greenwashing and other related areas.

The period to provide comments on the proposals ended on 6 March 2023.

II. Regulatory framework for ESG Rating Providers (ERPs) in securities market

In January 2022, SEBI published a consultation paper on ERPs for securities market which contained proposals on regulation/accreditation of ERPs. Based on the responses received, discussions held with various stakeholders and global regulatory developments, on 22 February 2023, SEBI issued a consultation paper to introduce a regulatory framework for ERPs.

The key takeaways are as follows:

A. Regulatory provisions for ERP: ERPs would be registered with SEBI under the SEBI (Credit Rating Agencies) Regulations, 1999 (CRA Regulations) and accordingly, the CRA Regulations would be amended to include a chapter for ERPs. Annexure I of the consultation paper contains the provisions for the proposed regulatory framework.

B. Additional commentary in rating rationale of Core ESG rating: As proposed in the abovementioned consultation paper, ERPs would provide Core ESG Ratings based on assured or verified data. It has been further proposed that ERPs should have the discretion to provide additional commentary/ outlook/observations on data that may not be verified/assured.

C. Disclosures in ESG Report: The consultation paper has proposed a minimum number of disclosures to be provided by ERPs to understand the rationale for the rating provided.

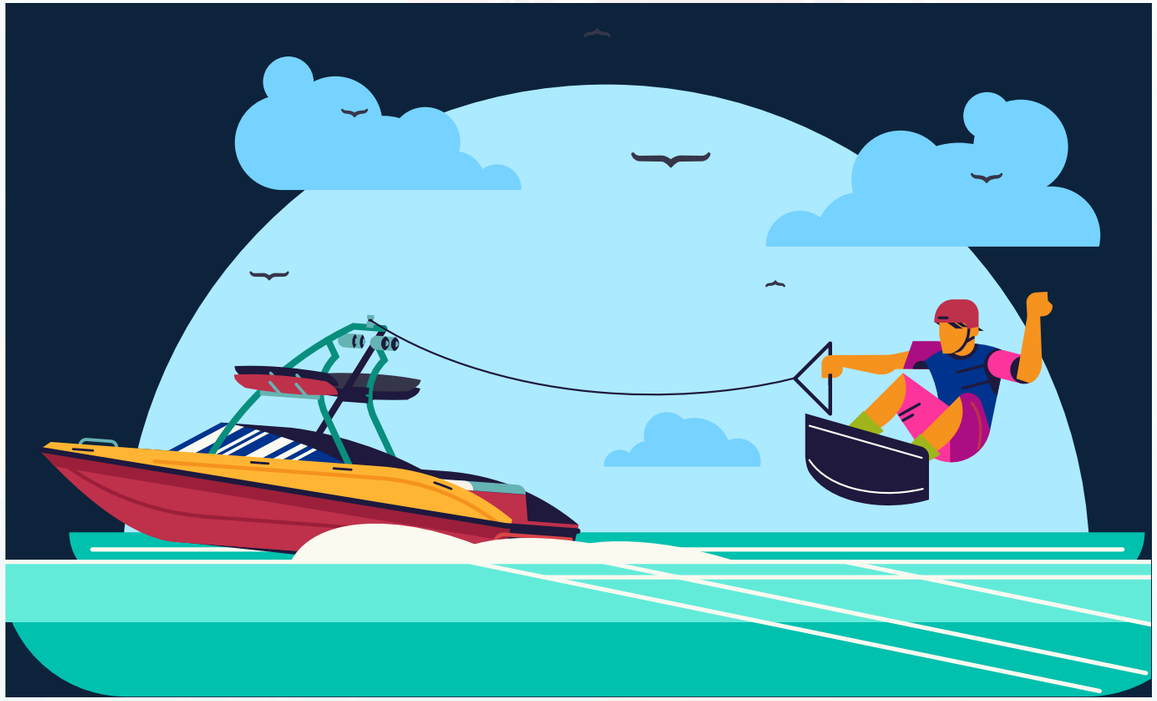
D. ESG score: Rating agencies are advised to provide two additional ratings:

- **Transition score**: ERPs should provide transition scores which would reflect the incremental changes that the company has made in its transition story over recent years or concrete plans/targets to address the risk and opportunities involved in transitioning to more sustainable operations.
- **Combined score:** A combined score which is a combination of combining ESG rating and transition rating, i.e. measuring both the status and the ability to transition should be provided.
  A combined score may also be provided in the following two manners:
  a. ESG Score + Transition or Parivartan Score = Combined Score
  b. Core ESG Score + Core Transition or Parivartan Score = Core Combined Score
  Note: The "+" sign does not mean simple addition of the two scores, but rather a combination of the two scores, as per the publicly-disclosed methodology of the ERP.

E. Business Model: As per the proposal in the consultation paper, either a issuer-pays or a subscriber-pays business model would be allowed for ERPs in India, however, in order to mitigate potential conflict of interests, an ERP would not be allowed to have hybrid model i.e. assign certain ESG rating based on issuer-pay model while assigning another ESG rating based on a subscriber-pays business model.

The period to provide comments on the proposals ended on 15 March 2023.

(Source: SEBI communication under reports for public comments issued on 20 February 2023 and 22 February 2023)



SEBI issues consultation paper on strengthening corporate governance at listed entities by empowering shareholders

On 21 February 2023, SEBI issued a consultation paper to strengthen corporate governance at listed entities by empowering the shareholders. The consultation paper contains proposals which would be implemented by amending the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations).

The key proposals are as follows:

- ## Disclosure and approval requirements for certain types of agreements that bind listed entities

  As per the existing provisions of the LODR Regulations, agreements which are binding and not in the normal course of business are required to be disclosed by a listed entity in accordance with the provisions of para A of Part A of Schedule III of the LODR Regulations (i.e. deemed to be material events which listed entities are required to disclose). However, it was observed that promoters have entered into binding agreements with third parties having an impact on the management, control, or imposing restrictions on the listed entity and these facts were not disclosed to the listed entity and its shareholders thereby resulting in information asymmetry. Therefore, following has been proposed:

  a. **Disclosure of agreements:** Agreements (including revision(s)/amendment(s)/ termination(s)) which impact the management, control of a listed entity, imposes any restriction, or creates any liability on a listed entity, whether or not the listed entity is a party to such agreements, should be disclosed. In case of any existing or subsisting agreements, as on 31 March 2023, disclosure should be provided to the stock exchanges by 30 June 2023.

  b. **Obligation to inform the listed entity:** If the listed entity is not party to any such agreement, then the shareholders, promoters, promoter group, related parties, directors, Key Managerial Personnel (KMP) or any other officer of a listed entity or of its holding, subsidiary, associate company who are parties to such agreements are obligated to inform the listed entity about such agreements within two working days from the date entering into such an agreement and the listed entity is required disclose the such details to the stock exchanges as per the timelines specified in para A of Part A of Schedule III of the LODR Regulations. If the listed entity is not party to any existing and subsisting agreement, disclosure should be made to the listed entity by 31 May 2023.

  c. **Disclosure in Annual Report**: The details of specified agreements entered during the FY would be disclosed in annual reports for the period beginning from FY 2023-24 onwards. In case of any existing or subsisting agreements, as on 31 March 2023, disclosure should be made in the annual report of the listed entity for FY 2022-23.

  d. **Opinion of the Board of Directors:** The Board of Directors should provide their opinion along with detailed rationale explaining as to whether such an agreement is in the economic interest of the listed entity. This provision would also be applicable in case of any existing or subsisting agreements.

  e. **Approval by shareholders:** For the agreements to be effective, an approval of the shareholders through special resolution and 'majority of minority' should be obtained. In case of existing and subsisting agreements, the same should be placed before the shareholders in the first general meeting (AGM or EGM[1]) of the listed entity held after 1 April 2023, for ratification.

- ## Review of special rights granted to certain shareholders as per the Articles of Association of the listed entity

  A company may provide special rights to certain specific shareholders prior to listing its securities. Once a public company gets listed, the special rights available to shareholders are put up for approval of the shareholders in the first general meeting post-listing. SEBI highlighted that it was observed that the shareholders' agreement (with these specific shareholders) was drafted in a way such the special rights would continue to be available even after significant dilution of their holding in those entities. In order to address the issue of certain shareholders enjoying special rights perpetually, the following has been proposed:

  a. Any special right (existing/proposed) granted to a shareholder of a listed entity shall be subject to shareholders' approval once in every five years from the date of grant of such special rights.

1. Annual General Meeting or Extra-ordinary meeting

b. The existing special rights available to shareholders shall be renewed within a period of five years from the date of notification of the amendments to the LODR Regulations.

• Sale, disposal or lease of assets of a listed entity outside the 'scheme of arrangement' framework

Currently, sale, lease or disposal of an undertaking can take place through provisions of scheme of arrangement prescribed in the Companies Act, 2013 (2013 Act) and/or the LODR Regulations and the circulars issued by SEBI. These provisions require prior approval of National Company Law Tribunal (NCLT), shareholders and stock exchanges and SEBI.

Such arrangements can also take place outside the scheme of arrangement framework i.e. through a business transfer agreement. However, presently there is no explicit framework protecting the interest of minority shareholders. Therefore, the following has been proposed for arrangements executed outside the framework for scheme of arrangement:

a. Introduction of LODR Regulations to arrangements for sale, disposal or lease of whole or substantially the whole of the undertaking of the listed company or where the company owns more than one undertaking, of the whole or substantially the whole of any one or more of such undertakings.

b. Mandatory disclosure of the objects and commercial rationale such arrangements to the shareholders

c. Such arrangement can be executed only if the votes cast by the public shareholders in favour of the proposal are more than the number of votes cast against it. This would be in addition to the requirement to pass a special resolution as provided in the 2013 Act.

• Addressing the issue of 'board permanency' in listed entities

As per the provisions of the 2013 Act, specific percentage of the directors are subject to mandatory retirement every year through rotation. Therefore, not all directors serving on the board of the entity may be subject to 'retirement by rotation'. Further, the Articles of Association (AoA) of the company can appoint a director on a 'permanent-basis'. In this situation, the shareholders of a listed entities do not get an opportunity to evaluate the performance of such directors. Therefore, the following has been proposed:

a. As on 31 March 2024, if there is any director serving on the board of a listed entity without his/her appointment or re-appointment being subject to shareholders' approval during the last 5 years then, an approval of the shareholders should be obtained in in the first general meeting to be held after 1 April 2024 for such a director's continuation on the board of the listed entity.

b. From 1 April 2024, subject to the other applicable provisions of law, the directorship of all directors serving on the board or appointed to the board would be put up before the shareholders for their approval at least once in every five years.

The abovementioned provisions would not be applicable to cases wherein the director is appointed pursuant to the orders of a court or a tribunal.

The period to provide comments on the consultation paper ended on 7 March 2023.

(Source: SEBI communication under reports for public comments issued 21 February 2023)

Consultation paper on streamlining disclosures by listed entities and strengthening compliance with SEBI LODR Regulations

SEBI issued a consultation paper on 20 February 2023 which aims to streamline disclosures of listed entities and strengthen the compliance by proposing amendments to the SEBI LODR Regulations. Some of the proposals are as follows:

- **Submission of first financial results by newly listed entities**

  Newly listed entities face challenges relating to submission of financial results due to absence of adequate time period for disclosure of financial results post listing and also there is no requirement to submit financial results for the previous quarter in case the listing date falls immediately after the statutory timeline prescribed for submission of the financial results.

  To address this concern, it has been proposed that newly listed entity would disclose its first financial results post listing (pertaining to the period immediately succeeding to the periods for which financial statements were disclosed in its offer document for initial public offer), within 15 days from the date of listing or as per the applicable timeline under LODR Regulations, whichever is later.

- **Timeline to fill up vacancy of directors, Compliance Officer, Chief Executive Officer (CEO) and Chief Financial Officer (CFO) in listed entities.**

  Timelines have been proposed for filling up the vacancies of directors, compliance officers, CEOs and CFOs arising out of reasons other than resignation and removal, such as death, disqualification, etc., and for the vacancies of directors other than independent directors. The timelines are as follows:

- **Freezing of demat accounts of the MDs, WTDs and CEOs of a listed entity for continuing non-compliance with the LODR Regulations and/or non-payment of fines by a listed entity**

  Presently, as per a SEBI circular[3] issued in January 2020, in case of any continuing non-compliance of the LODR Regulation and/or non-payment of fines, the demat account(s) of the promoters are frozen till rectification of non-compliance and payment of outstanding fines.

  SEBI through its consultation paper, proposed that the demat account of the WTDs, MD and CEO(s) would also be frozen, in addition to the demat account(s) of the promoters, for continuing non-compliance and/or non-payment of fines by a listed entity.

The period to provide comments on the above consultation paper ended on 6 March 2023.

(Source: SEBI communication under reports for public comments issued 20 February 2023)

Designation	Proposed timeline to fill vacancy
Directors	a. Any intermittent vacancy should be filled-up at the earliest but not later than three months from the date of such vacancy. However, this is not applicable if listed entity complies with Regulation 17(1)[2] of the LODR Regulation without filling up the vacancy created. b. In case of non-compliance of Regulation 17(1) due to appointment of a non-independent director or change in designation of an existing director or cessation of an existing director due to completion of tenure, the vacancy so created shall be filled-up on that day itself. Introduction of the above new provisions would result in omission of Regulation 25(6) of LODR Regulation specifying the timeline for filling up vacancy of an independent director created due to resignation or removal by the board of directors
• Compliance Officer • CFO • CEO/Managing Director (MD)/ Whole Time Director (WTD)/ Manager	Any vacancy created should be filled-up at the earliest but not later than three months from the date of such vacancy.

2. Regulation 17(1) of LODR Regulations specifies the composition of board of directors for the listed entities including minimum number of directors, independent directors, non-executive directors, woman director and independent woman director

3. SEBI circular no. SEBI/HO/CFD/CMD/CIR/P/2020/12 dated 22 January 2020.

SEBI issues consultation paper with the objective of increasing transparency and streamlining certain processes in the ICDR Regulations

SEBI issued a consultation paper on 22 February 2023 which would result in certain amendments to Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations), with the objective of increasing transparency and streamlining certain processes.

Some of the key proposals are as follows:

- **Underwriting for public issue (IPO and FPO)**

  Currently, as per the provisions of ICDR Regulation, an issuer can enter into an agreement for underwriting the under-subscription portion of an issue due to shortfall in demand even after closing of the issue but before filing of prospectus. Such information is not made available to the subscribing investors while applying for the IPO. In order to address these concerns, it has been proposed that:

  a. In case the public issue (IPO and FPO) is underwritten to cover under-subscription in the issue, then prior to filing the red herring prospectus, the issuer is required to enter into underwriting agreement with underwriters indicating the maximum number of specified securities which the underwriters would subscribe to, either themselves or by procuring subscription, at a predetermined price not less than the issue price.

  b. Further, prior to filing the prospectus, the issuer should enter into underwriting agreement with the lead manager(s) and syndicate member(s), indicating the maximum number of specified securities which they shall subscribe to, either themselves or by procuring subscription, at the predetermined price not less than issue price to the extent of rejection of valid bids procured by the lead manager(s) or their respective syndicate member(s).

- **Precondition for announcing bonus issue by a listed entity:**

  In certain instances, it has been observed that, an issuer announces bonus issue, but the issuer has not yet received in-principle approval for listing and has not received a trading approval from stock exchange(s) for its previous issuances. Additionally, non-compliances were observed in such previous issuances as well. Therefore, the following has been proposed:

  a. A listed issuer would be eligible to announce its bonus issue only if it has received in-principle approval from the stock exchanges for listing of all the pre-bonus securities issued by the listed entity excluding Employee Stock options (ESOPs) and convertible shares/warrants.

  b. Bonus issuance to shareholders should be made in the dematerialised form only.

- **Inclusion of 'Pension funds sponsored by entities which are associate of the lead manager', to participate in Anchor Investor category in a public issue:**

  The ICDR Regulations contains provisions with respect participation of anchor investors in book building process. The provisions restrict lead managers and its associates from participating as anchor investors. Similarly, pension funds sponsored by entities which are associate of the lead manager are also restricted.

  Therefore, it has been proposed to allow pension funds of the entities which are associate of the lead managers, to participate as an anchor investor in a public issue. This proposed amendment would be in line with the provisions for participation as anchor investors as stipulated under the SEBI (Real Estate Investment Trusts) Regulations, 2014.

- **Inclusion of following requirements in respect to disclosures made in the offer document:**

  a. Providing access to material contracts and material documents (as per the list provided in the DRHP/RHP) for inspection through online means apart from inspection at the registered office.

  b. Providing complete industry report as part of material documents for inspection both through offline and online modes.

  c. Hosting draft offer document and offer document(s) on website of issuer company

The period to provide comments on the consultation paper ended on 8 March 2023.

(Source: SEBI communication under reports for public comments issued 22 February 2023)

SEBI approves certain proposals through its board meeting

On 29 March 2023, SEBI in its board meeting approved certain proposals mentioned in the abovementioned consultation paper. Following are the key takeaways from the board meeting:

- **Balanced framework for ESG disclosures, ratings and investing:** SEBI has approved the regulatory framework for ESG disclosures, ratings and investing. Corresponding amendments would be made in SEBI LODR Regulations and SEBI (Mutual Funds) Regulations, 1996 (MF Regulations) to facilitate a balanced approach to ESG. Following are the key takeaways:

  A. **ESG BRSR Core:** The BRSR Core framework on which reasonable assurance is required, would be applicable for the top 150 listed entities (by market capitalisation) from FY 2023-24 (as per the consultation paper it was proposed for top 250 companies) and gradually applicability will be extended to the top 1,000 listed entities by FY 2026-27.

  B. **ESG disclosures for value chain of listed entities:** The requirements for disclosure and assurance would be applicable to the top 250 listed entities (by market capitalisation), on a comply-or-explain basis from FY 2024-25 and FY 2025-26, respectively.

  C. **ESG Rating:** ERPs are required to consider India/emerging market parameters in ESG Ratings. Further, ERPs should offer a separate category of ESG rating called as 'Core ESG Rating', which will be based on the assured parameters under BRSR Core.

  D. **ESG Investing:** Amendments would be introduced to address the risk of mis-selling and greenwashing and enhance the reporting requirements to promote ESG investing. Among the other proposals approved, following are the two key amendments:

     a. ESG schemes would be mandatorily required to invest at least 65 per cent of Asset Under Management (AUM) in listed entities where assurance on BRSR Core is undertaken.

     b. Mandatory third-party assurance and certification would be required by board of AMCs on compliance with objective of the ESG scheme.

- **Establishing a regulatory framework for ERPs:** SEBI has approved the proposal to introduce a regulatory framework for ERPs in securities market by introducing a new chapter in the CRA Regulations.

- **Amendments to SEBI LODR Regulations to facilitate more comprehensive and timely disclosure**

  a. **Disclosure of material events or information:** Following amendments have been approved to bring transparency and to ensure timely disclosure of material events or information by listed entities:

     - Introduction of a quantitative threshold for determining 'materiality' of events/ information.
     - For decisions taken in the meeting of the Board of Directors, disclosure of material events/information to be made within 30 minutes whereas for material events/ information emanating from within the listed entity the disclosure should be made within 12 hours.
     - Market rumours to be verified and confirmed, denied or clarified, as the case may be, by top 100 listed entities by market capitalisation effective from 1 October 2023 and by top 250 listed entities with effect from 1 April 2024.
     - Disclosure for certain types of agreements binding listed entities.

  b. **Strengthening corporate governance at listed entities by empowering shareholders:** Following amendments approved by SEBI:

     - Periodic approval by shareholders for any special right granted to a shareholder of a listed entity to address the issue of perpetuity of special rights.
     - The extant mechanism of sale, lease or disposal of an undertaking of a listed entity outside the 'scheme of arrangement' framework to be strengthened.
     - Approval of shareholders on a periodic basis for directors serving on the board of a listed entity in order to do away with practice of permanent board seats.

  c. **Streamlining timeline for submission of first financial results by newly listed entities:** Approved to streamline the timeline for submission of first financial results by newly listed entities in order to overcome the challenges in immediate submission of financial results post listing and to ensure that there is no omission in submission of financial results.

d. **Timeline to fill up vacancy of directors and other officials of listed entities:** Listed entities are now required to fill up the vacancy of directors, compliance officer, Chief Executive Officer (CEO) and Chief Financial Officer (CFO) within a period of three months from the date of such vacancy, to ensure that such critical positions are not kept vacant.

- ## Amendments to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, (ICDR Regulation)

a. **Disclosure regarding underwriting:** If an issuer has entered into an underwriting agreement to cover shortfall in demand or to cover subscription risk, the same should be disclosed in the offer document prior to issue opening.

b. **Bonus issue:** A listed entity can announce bonus issue of shares, only after obtaining approval from the stock exchanges for listing and trading of all the pre-bonus securities issued by it. Further, bonus issue should be made only in dematerialised form.

- **Amendments approved for debt market related entities:**

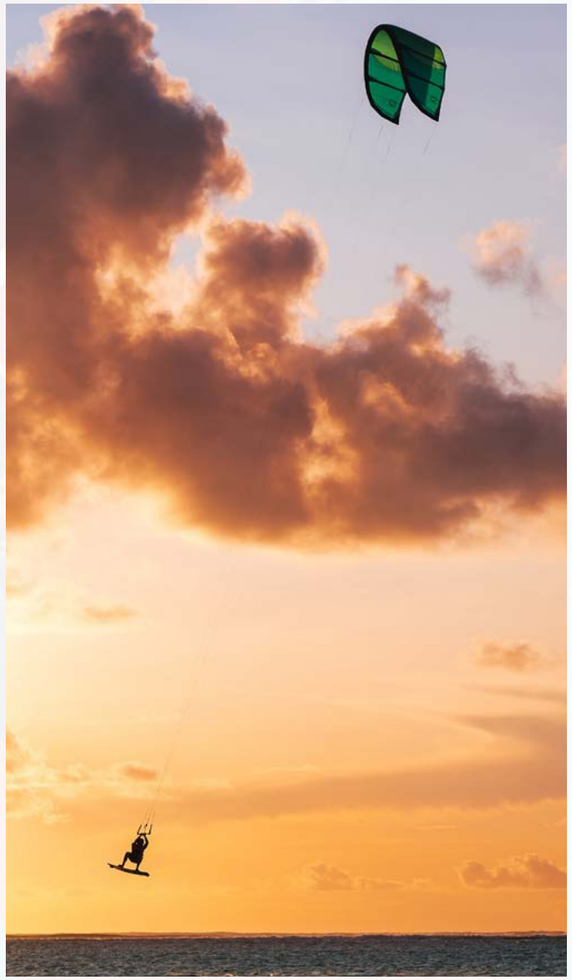
a. **Compliance of corporate governance norms by High Value Debt Listed Entities (HVDLEs):** The corporate governance norms (i.e. Regulation 16 to 27 of LODR Regulations) would be applicable on a 'comply or explain' for HVDLEs till 31 March 31 2024 *(earlier this was till 31 March 2023).*

b. **Introduction of concept of General Information Document (GID) and Key Information Document (KID) for issuance of bonds/commercial paper and streamlining of disclosures:** The following have been approved:

- The concept of concept of GID and KID to be introduced for issuers for non-convertible securities and Commercial Paper. A GID would contain the specified information and disclosures in common schedule and should be filed with the stock exchanges at the time of the first issuance. The GID shall have a validity period of one year. Thereafter, for subsequent private placements of non-convertible securities and/or commercial paper within the validity period, only a KID shall be required to be filed with the stock exchanges containing material changes. This is proposed to be made applicable on a 'comply or explain' basis till 31 March 2024 and mandatory thereafter.
- Common schedule for disclosures would be introduced for public issuance of debt securities/non-convertible redeemable preference shares and placement memorandum for private placement of non-convertible securities proposed to be listed.

We would provide an overview of the abovementioned approved proposals in the subsequent AAU publications based on the amendments made in the SEBI Regulations.

(Source: SEBI press release no. PR No.6/2023 on board meeting)



RBI issues circular on recognition of unrealised income by Asset Reconstruction Companies (ARCs)

RBI observed that due to adoption of Ind AS by ARCs for preparation of their financial statements from financial year 2019-20 onwards, some ARCs are recognising management fees even though the said fee had not been realised (even after 180 days). This led to continued recognition of unrealised income. To address this concern, RBI issued a circular on 20 February 2023 to issue a clarification relating to recognition of unrealised income by ARCs. The circular issued by RBI is applicable all ARCs preparing their financial statements as per Ind AS.

The key takeaways from the circular are as follows:

- **Calculation of the capital adequacy ratio and the amount available for payment of dividend:**

The following amounts are to be reduced from the net owned funds while calculating the capital adequacy ratio and the amount available for payment of dividend:

a. Management fee recognised during the planning period[4] that remains unrealised beyond 180 days from the date of expiry of the planning period.

b. Management fee recognised after the expiry of the planning period that remains unrealised beyond 180 days of such recognition.

c. Any unrealised management fees, notwithstanding the period for which it has remained unrealised, where the net asset value of the security receipts has fallen below 50 per cent of the face value.

It is further stated that the amount so reduced should be net of any specific expected credit loss allowances held on unrealised management fee, referred to in the abovementioned points and the tax implications thereon, if any.

- **Review by Audit Committee of the Board (ACB):** The ACB should review the extent of unrealised management fee and satisfy itself on the recoverability of the same while finalising the financial statements. It should also ensure that the management fee is computed in accordance with the specified regulations.

- **Disclosure in annual financial statements:** ARCs are required to disclose the information on the ageing of the unrealised management fee recognised in the notes to accounts in the annual financial statements as per the format specified in the circular.

4. Planning period means a period not exceeding six months allowed for formulating a plan for realisation of financial assets acquired for the purpose of reconstruction as defined in clause 2(xii) of Master Circular on Asset Reconstruction Companies dated April 1, 2022,

(Source: RBI circular no. RBI/2022-23/182 DOR.ACC.REC.No.104/21.07.001/2022-23 dated 20 February 2023)

ICAI has issued education material on Ind AS 21, The Effects of Changes in Foreign Exchange Rates

Ind AS 21 prescribes procedure for including foreign currency transactions and foreign operations in the financial statements of an entity. On 21 February 2023, the Institute of Chartered Accountants of India (ICAI) has issued an educational material on Ind AS 21 which aims to address all relevant aspects of the standard by way of a brief summary of the standard. It also includes Frequently Asked Questions (FAQs) to address certain practical issues.

The FAQs provide guidance on issues such as accounting for transactions and balances in foreign currencies, translating the results and balance sheet of foreign operations that are included in the financial statements of the entity by consolidation or equity method and translating an entity's results and balance sheet into a presentation currency. It also provides guidance on which exchange rate(s) are to be used and how to report the effects of changes in exchange rates in the financial statements.

(Source: ICAI announcement dated 21 February 2023)

ICAI has issued implementation guide on Standard on Auditing (SA) 580, Written Representations

Written representations are an important means of obtaining audit evidence as they supplement 'other audit evidence' obtained by auditors during the course of audit. SA 580 lays down the basic principles of written representations. These principles should be followed by auditors while complying with the requirements of the standards on auditing.

On 7 March 2023, ICAI issued an implementation guide on SA 580 to help auditors to effectively comply with the requirements of the standard. The guide provides an overview of SA 580, guidance on various aspects of the standard in a Question-Answer format, illustrative checklist and appendices on the illustrative format for a written representation letter.

(Source: ICAI announcement dated 7 March 2023)

ICAI issues implementation guide on auditor's reporting requirement on audit trail

Section 143(3) of the Companies Act, 2013 (2013 Act) provides various matters on which auditors are required to report in their auditor's report. Further, Rule 11 of the Companies (Audit and Auditors) Rules, 2014 (Audit Rules) specifies such other matters that are to be reported by the auditor.

On 24 March 2023, the Ministry of Corporate Affairs (MCA) amended the Companies (Audit and Auditors) Rules, 2014 to introduce Rule 11(g) which prescribes a new reporting requirement for auditors. Auditors need to evaluate the accounting software of an organisations to assess whether the audit trail feature was operated throughout the year and has not tampered with and report accordingly in his/her report. Additionally, auditors are required to evaluate whether such audit trail has been preserved by the company as per statutory requirements for record retention.

In this regard, on 28 March 2023, the Auditing and Assurance Standards Board (AASB) of ICAI has issued an implementation guide on the new reporting requirement. The implementation guide aims to provide detailed guidance on various aspects to enable auditors to discharge their duties more efficiently and effectively. It prescribes management's and auditor's responsibility, applicability of the rule and audit approach to be applied, illustrative wordings for the auditor's report and management representation letter.

(Source: ICAI announcement dated 21 February 2023)

IASB has concluded its project to improve its approach to develop disclosure requirements in IFRS Accounting Standards

On 8 March 2023, IASB concluded its project on improving its approach to developing and drafting disclosure requirements. The improved approach is designed to help the IASB develop Accounting Standards that would enable companies to make better judgements about which information is material and should be disclosed, thereby providing more useful information to investors.

The improved approach involves:

- Engaging early with investors to understand their information needs
- Developing disclosure requirements alongside recognition and measurement requirements; considering the digital reporting implications of new disclosure requirements
- Using general and specific objectives that describe and explain investors' information needs; and
- Supporting specific objectives by requiring companies to disclose items of information that would satisfy the objectives in most cases.

The IASB intends to use the above approach when developing disclosure requirement.

(Source: IFRS project summary news dated 8 March 2023)

First Notes

SEBI consultation paper on ESG disclosures, ratings and investing

There has been a growing emphasis towards the significant economic and financial impact of Environmental, Social and Governance (ESG) related risks and opportunities, ESG investing is becoming increasingly popular among the investors and other stakeholders. This has also led to an increase in the number of ESG funds being launched and related rating products being used. Considering the relevance of ESG information to stakeholders, it is important that such information is complete, comparable and relevant to the extent possible. In order to address this, SEBI constituted the ESG Advisory Committee to recommend regulatory framework for ESG disclosures, ratings and investing.

Based on the recommendations of the ESG Advisory Committee and other internal deliberations, on 20 February 2023, SEBI issued a 'Consultation Paper on ESG disclosures, ratings and investing'. Subsequently, on 22 February 2023, SEBI issued a consultation paper to propose a regulatory framework for ERPs.

In this issue of the First Notes, we aim to provide an overview of key proposals of the consultation papers issued by SEBI relating to regulatory framework of ESG disclosures by listed entities, ESG ratings in securities market (including regulatory framework for ERPs) and ESG investing by mutual funds.

To access the First Note, please **click here**.

Voices on Reporting

KPMG in India has scheduled a webinar on Wednesday, 5 April 2023 from 4 p.m. to 5 p.m. to discuss the key financial reporting and regulatory matters which are expected to be relevant for stakeholders for the quarter ended 31 March 2023.

Some of the key updates to be discussed are as follows:

1. Mandatory requirement of maintaining audit trail feature into the accounting software with effect from 1 April 2023
2. Proposed regulatory framework for Environmental, Social, and Governance (ESG) disclosures, ratings and investing for listed entities issued by the Securities and Exchange Board of India (SEBI)
3. Other key regulatory updates and year-end reminders.

For registration details, please **click here.**

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